

# TITLE 8. DIVISION OF LABOR STANDARDS ENFORCEMENT

## NOTICE OF PROPOSED RULEMAKING

The Department of Industrial Relations (“DIR”) proposes to adopt the proposed regulation described below after considering all comments, objections, and recommendations regarding the proposed action.

### PUBLIC HEARING

The DIR will hold a public hearing starting at 9:00 a.m. on Tuesday, June 21, 2005, in the Auditorium of the Ronald Reagan State Building located at 300 South Spring Street, Los Angeles, CA 90013. The Auditorium is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The DIR requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the DIR. The written comment period closes at **5:00 p.m. on Tuesday, June 21, 2005**. The DIR will consider only comments received at the DIR offices by that time. Submit comments to:

Allen Perlof  
Deputy Chief Labor Commissioner  
Department of Industrial Relations  
Division of Labor Standards Enforcement, 9<sup>th</sup> Floor West  
P.O. Box 420603  
San Francisco, CA 94142

### AUTHORITY AND REFERENCE

Labor Code Section 2065 authorizes the DIR to adopt the proposed regulation, which would implement, interpret, or make specific Division 2, Part 8.5, Chapter 2, Section 2065 of the Labor Code.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The DIR proposes to adopt Sections 13694, in Title 8 of the California Code of Regulations (CCR). This section concerns the procedures necessary to carry out the provisions of Labor Code Section 2065 that relate to the making of a claim made for recovery from the Car Wash Worker Restitution Fund (“Fund”).

The purpose of the proposed regulation is to establish the procedure an aggrieved employee must follow in order to make claim for recovery of monies from the Car Wash Worker Restitution Fund.

Labor Code Section 2065 establishes the Car Wash Worker Restitution Fund (“Fund”), and provides that \$50.00 of each registrant’s annual registration fee, in addition to the annual assessment, be deposited into the Fund, along with 50 percent of all fines collected pursuant to Section 2064.

13694. Procedure for Obtaining Damages from the Car Wash Worker Restitution Fund, Disbursement of Monies from the Car Wash Worker Restitution Fund, Hearing.

Section 13694 will specify that the Labor Commissioner will determine which claims made for recovery from the Car Wash Worker Restitution Fund (“Fund”) are accepted, and the amount of money, if any, to be disbursed. This Section will also specify the procedure a person must follow in making a claim for recovery from the Fund, the action the Labor Commissioner may take if he or she determines that a declaration required under this Section is insufficient to sustain a recovery from the Fund. Additionally, this Section will provide that the Labor Commissioner shall have the authority to order an investigatory hearing to determine the validity of a claim seeking recovery from the Fund, and the process for implementing and conducting the investigatory hearing. The DIR is proposing that before a person may make a claim for recovery from the Fund, he or she must first attempt to collect from the employer and the employer’s surety bond, and that any claim that is made for recovery from the Fund must be in writing and include the information set forth in subdivision (b) of this Section.

DISCLOSURES REGARDING THE PROPOSED ACTION

The DIR has made the following initial determinations:

- Mandate on local agencies and school districts: None.
- Cost or savings to any state agency: None.
- Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None.
- Other nondiscretionary cost or savings imposed on local agencies: None.
- Cost or savings in federal funding to the state: None.
- Significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: None.
- Cost impacts on a representative private person or business: The DIR is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Adoption of these regulations will not:
  - (1) Create or eliminate jobs within California;
  - (2) Create new businesses or eliminate existing businesses within California; or
  - (3) Affect the expansion of businesses currently doing business within California.
- Significant affect on housing costs: None.
- Small business determination: The DIR has determined that the proposed regulations affect small business.

## CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the DIR must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the agency would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The DIR invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

## CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Allen Perlof  
Division of Labor Standards Enforcement, 9<sup>th</sup> Floor West  
P.O. Box 420603  
San Francisco, CA 94142  
Telephone: (415) 703-4810

The backup contact person for these inquiries is:

Lucia Ceja  
Division of Labor Standards Enforcement, 9<sup>th</sup> Floor West  
P.O. Box 420603  
San Francisco, CA 94142  
Telephone: (415) 703-4810

Please direct requests for copies of the proposed text (the “express terms”) of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which the rulemaking is based to Mr. Perlof at the above address.

## AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The DIR will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the DLSE Headquarters office located at the Hiram Johnson State Building, 455 Golden Gate Avenue, 9<sup>th</sup> Floor West, San Francisco, California. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, the initial statement of reasons, and the Economic and Fiscal Impact Statement, STD. 399. Copies may be obtained by contacting Allen Perlof at the address or phone number listed above.

## AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the DIR may adopt the proposed regulations substantially as described in this notice. If the DIR makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly

indicated) available to the public for at least 15 calendar days before the DIR adopts the regulations as revised. Please send requests for a copy of a modified regulation to the attention of Allen Perlof at the address indicated above. The DIR will accept written comments on the modified regulation for 15 calendar days after the date on which it is made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Mr. Perlof at the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in underline and strikeout can be accessed through the Department Of Industrial Relations' website at <http://www.dir.ca.gov/DIRRulemaking.html>.